

DOCKET NO. MMX-CV-12-5008136 S : SUPERIOR COURT
SALVATORE CARACOGLIA : J.D. OF MIDDLESEX
V. : AT MIDDLETOWN
LISA SANTANGELO : MAY 31, 2013

MEMORANDUM OF DECISION

MOTION TO DISMISS NO. 113

The plaintiff filed his complaint dated February 17, 2012 against the defendant and filed a revised complaint dated the same date containing essentially the same allegations as the initial complaint. Both complaints seek to recover damages from Lisa Santangelo for alleged false statements made to the police concerning the activities of the plaintiff on October 24, 2009 when the plaintiff was involved in an altercation over his posting of "political flyers" on a kiosk in the City of Middletown, Connecticut. This altercation led to the plaintiff being charged with disorderly conduct and ultimately tried on a charge breach of the peace in violation of C.G.S. § 53a-181. Both complaints also allege that the defendant made false statements as the complaining witness at a subsequent trial on the foregoing criminal charge wherein the

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plaintiff was ultimately convicted of two counts of the infraction of creating a public disturbance on July 28, 2010. The complaint does not allege that the defendant made any statements which were unrelated to the plaintiff's conduct in connection with the breach of peace charge.

On May 14, 2012 plaintiff filed a document entitled "Revised Information" (Docket Entry 102) in an apparent attempt to amend the complaint in which the plaintiff alleges that the Defendant made a false entry on a police report in violation of C.G.S. § 53a-132 and further alleges the defendant committed perjury at the trial in violation of C.G.S. § 53a-156 (a). The "Revised Information" was accompanied by a "Motion to Modify Revised Complaint" which plaintiff claims to have filed to clarify additional accusations against the defendant. All allegations in these documents also allege statements which were wholly related to the breach of peace charge against the plaintiff.

The defendant has moved to dismiss on the grounds of absolute immunity for statements made in the course of judicial proceedings. "It is well settled that communications uttered or published in the course of judicial proceedings are absolutely privileged [as] long as they are in some way pertinent to the subject of the controversy . . . The effect of an absolute privilege is that damages cannot be recovered for the publication of the privileged statement even if the statement is false and malicious.' (Citation omitted; internal quotation marks omitted.) *Gallo v. Barile*, 284 Conn. 459, 465-66, 935 A.2d 103 (2007)." *Mercer v. Blanchette*, 133 Conn. App. 84, 89

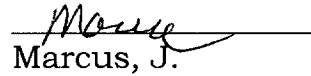
(2012). See also *Craig v. Stafford Construction, Inc.*, 271 Conn. 78, 93, 856 A.2d 372 (2004) (investigation by police department's internal affairs division constituted quasi-judicial proceeding, thereby affording absolute immunity to citizen complainant whose claim had given rise to investigation).

In a companion case arising out of the same facts and circumstances as the case at bar, *Caracoglia v. Calabrese*, MMX-CV-12-5008139-S (Conn. Sup. Ct., *Aurigemma, J.*, Aug. 14, 2012) this court dismissed the plaintiff's action against a fellow witness Chris Calabrese. This court held:

Absolute immunity furthers the public policy of encouraging participation and candor in judicial . . . proceedings. "This objective would be thwarted if those persons whom the common law doctrine was intended to protect nevertheless faced the threat of suit." *Chadha v. Charlotte Hungerford Hospital*, 272 Conn. 776, 787, 865 A.2d 1163 (2005). "In making [the] determination [of whether a particular statement is made in the course of a judicial proceeding], the court must decide as a matter of law whether the allegedly [false and malicious] statements are sufficiently relevant to the issues involved in a proposed or ongoing judicial proceeding, so as to qualify for the privilege. The test for relevancy is generous, and 'judicial proceeding' has been defined liberally to encompass much more than civil litigation or criminal trials." *Hopkins v. O'Connor*, 282 Conn. 821, 839, 925 A.2d 1030 (2007).

Since the alleged statements made by the defendant were made within the course of judicial proceedings and were clearly related to those proceedings, the court grants the motion to dismiss. See *Mercer v. Blanchette*, 133 Conn.App. 84, 89 (2012).

The allegations made in the instant case arose out of the exact same set of circumstances as in Calabrese and are nearly identical to those made against Mr. Calabrese in the companion case which was dismissed. The alleged statements were made within the course of a judicial proceeding, they were clearly related to those proceedings and they therefore enjoy absolute immunity. Thus the court grants the motion to dismiss.



Marcus, J.